



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/152206

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on October 10, 2013, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly seeks to recover an overissuance of BC+ benefits in the amount of \$1,068.08 for the period of January, 2013 – April, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Lanae Boyenga
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On June 21, 2012, the agency issued a Notice of Decision to the Petitioner informing him that his application of May 1, 2012 for BC+ benefits was approved effective May 1, 2012. The notice also informed the Petitioner that he must report any change in health insurance coverage within

10 days. In addition, the notice informed the Petitioner that he must report by the 10th day of the next month if total household monthly income exceeds \$1,590.83.

3. On October 19, 2012, the agency issued a "Welcome to BC+ HMO" letter to the Petitioner informing him that beginning November 1, 2012, the members of his family would be enrolled in CommunityConnect HealthPlan.
4. On April 18, 2013, the Petitioner submitted an online renewal. The Petitioner did not report any employment or earned income for himself.
5. On June 25, 2013, the agency received employment verifications from [REDACTED] reporting Petitioner was employed from October 29, 2012 – April 18, 2013. Petitioner's household income from January, 2013 – April, 2013 was as follows:

January, 2013	\$4,746.89
February, 2013	\$4,062.46
March, 2013	\$4,524.55
April, 2013	\$3,306.22

While Petitioner was employed, he had health insurance through his employer.

6. Petitioner's wife's monthly income was \$1,467.04 at all times pertinent herein.
7. The capitation rate for Petitioner and his wife during the period of January, 2013 – April, 2013 was \$1,068.08 (\$441 for Petitioner, \$627.08 for Petitioner's wife).
8. On September 16, 2013, the agency issued a Medicaid/BadgerCare Overpayment Notice to the Petitioner informing him that the agency intends to recover an overissuance of benefits in the amount of \$1,068.08 for the period of January, 2013 – April, 2013.
9. On September 19, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

BadgerCare+ is an expansion of the Wisconsin MA program designed to provide coverage to children under age 19 and their parents. Wis. Adm. Code, §DHS 103.03(1)(f). To be eligible for BadgerCare+, a person must be under age 19, a custodial parent, or the spouse of a custodial parent. Wis. Adm. Code, §DHS 103.03(1)(f)1. Parents in a BadgerCare+ household are eligible only if the total household income is no greater than 200% of the federal poverty level (FPL). There is no income limit for BadgerCare+ eligibility for children but there may be a premium for them.

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.

3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

The overpayment alleged here occurred as Petitioner failed to report increases in household income and failed to report a change in health insurance coverage. The change in health insurance is a change that must be reported within 10 days. The change in income must be reported by the 10th of the next month.

27.3 INCOME CHANGE REPORTING REQUIREMENTS

BadgerCare +members are only required to report income changes when their total monthly gross income exceeds the following percentages of the Federal Poverty Level (FPL) for their group size. The income change must be reported by the 10th of the month, following the month, in which the total income exceeded the following thresholds:

- 100% FPL
- 150% FPL
- 200% FPL
- 250% FPL
- 300%FPL

The CARES notice will indicate the dollar amount associated with each FPL level, for the BC+ group size.

BadgerCare+ Eligibility Handbook (BEH) § 27.3.

In this case, the Petitioner testified that he called the agency soon after starting his employment at [REDACTED] in October, 2012 to report that he had a new job and would not need health insurance from the agency. The agency testified that there are no case comments indicating the Petitioner contacted the agency to report his employment or insurance. The agency produced evidence to demonstrate that the Petitioner's household income exceeded the reporting level as well as the income limit of \$3,181.66 (for January and February, 2013) and \$3,255 (for March and April, 2013) for a household of three. I reviewed the case comments and note that there is no indication that the Petitioner called the agency at the time of his hire at [REDACTED] to report his employment or insurance coverage.

There were no claims paid by BC+ during the period for the Petitioner's family. The overpayment consists solely of the capitation rate paid by the agency for the Petitioner's coverage during the period of January – April, 2013. In addition to arguing that he had reported his employment and insurance, the Petitioner argues that he did not utilize BC+ and therefore should not be liable for an overpayment. Though no claims were paid, the agency did pay a capitation rate for Petitioner and his wife though they were not eligible for BC+ benefits from January – April, 2013. Therefore, the Petitioner is liable for an overpayment of \$1,068.08.

CONCLUSIONS OF LAW

The agency properly seeks to recover an overissuance of BC+ benefits in the amount of \$1,068.08 for the period of January – April, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of December, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 3, 2013.

Waukesha County Health and Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability